

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)

)

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vs.)

Criminal Docket No. 03-10370-DPW

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KURT WALTER,)

Defendant.)

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KURT WALTER'S SENTENCING MEMORANDUM

Not as an excuse, but as an explanation, Kurt Walter says he began experimenting with marijuana when he was in the sixth grade in the Brookline School system. Although illegal, use of the drug appeared to be subtly tolerated by the community. Famous people, celebrities and successful adults openly admitted use of the drug and joked about high school, college and life experiences while "stoned". The subject of marijuana use was a frequent topic on television and in the movies and those people, who appeared to enjoy and live life to the fullest, smoked marijuana. To be with the "in crowd" Kurt continued to smoke marijuana until it became an every-day occurrence.

Notwithstanding his continued and frequent use of marijuana, Kurt graduated high school, graduated college and received a law degree. But, he was never able to properly use his brain and the skills he had been taught. Instead, his persistent use of marijuana affected his mental state and he became emotionally dependent on marijuana. He was aimless, dabbling in a number of businesses, but never being able to truly commit to anything, or anybody.

Even a casual review of the tape recordings in this case reveal Kurt as jovial “party guy”, and less of a “businessman”. With a few exceptions, he sold small quantities marijuana, mostly to his friends. None-the-less, Kurt knew that what he was doing was wrong.

The arrest in this case, and the resulting subsequent events, has altered Kurt’s live, changed forever his attitudes. These events have already transformed this aimless adult “boy” and has finally made him a man.

A. Post Offense Rehabilitation, Acceptance of Responsibility, and Remorse

1. Kurt’s Extraordinary Involvement with his Son, Maxwell

Sometimes unanticipated events beyond one’s control determine the course of one’s life. In the same context, how a person reacts to and handles an adverse circumstance is a good measuring stick of that person’s character.

After he was arrested, Kurt was detained for approximately two (2) months in Plymouth. As a result of this incarceration Kurt was forced to abstain from the use of marijuana. When he was finally released, with a random drug testing condition, Kurt was “clean” for the first time since the sixth grade. Kurt has faithfully maintained his sobriety from marijuana and has never tested positive during the entire period of his release.

Shortly after Kurt’s release from Plymouth, his son’s (Maxwell) mother experienced a problem and was placed into a drug rehabilitation facility. DSS opened a case and was considering putting Maxwell into Foster care. Although Kurt had always financially supported his son and saw him on a regular basis, he had never lived with or been involved, on a daily basis, with Maxwell’s care. Kurt, nevertheless, intervened and

moved Maxwell to Brookline to live with him. *A copy of a letter from April Bolenbaugh is submitted under separate cover and relates to Kurt's involvement in Maxwell's care.*

From the first took became involved with DSS to take custody of Maxwell until the preliminary plea in this case Kurt has been the primary care-giver to Maxwell.

Upon Kurt's release from Plymouth Kurt lived with his married friends, the McCarthys, pursuant to the conditions of his release, and, shortly after moving there, moved his son in with him. When the living conditions at Kurt's friend's home became burdensome of the McCarthy family because Maxwell had moved in, Kurt, with the permission of pretrial services, rented an apartment for him and Maxwell. Although the rents were higher, he remained in Brookline so Maxwell could attend the Brookline schools.

Kurt became an active, concerned and involved parent. He immersed himself in Maxwell's educational needs, interfacing with the school teachers and administration. *A copy of a letter from David Summergrad, Principal of the John Runkle School is submitted under separate cover and relates to Kurt's involvement in Maxwell's schooling.* Kurt also arranged for and participated in counseling with Maxwell. *A copy of a letter from Jeff Roberts of Wayside Youth & Family Support Network is submitted under separate cover and relates to Kurt's involvement in Maxwell's care.* The letter from Maxwell's and Kurt's psychologists, which are also submitted under separate cover and show the extent of Kurt's involvement in his son's care. *A copy of letters from Craig Burns, PhD and David DeWine, MA are incorporated herein.*

Because of Kurt's never life style of being the sole caregiver for his son, Kurt sought appropriate employment to support him and his son, while at the same time being

flexible enough to be available for his son when necessary. Kurt took a job with Andy Bernbaum in Newton. Mr. Bernbaum sells parts for classic cars over the internet. Kurt was basically a telephone order taker. Kurt took the job so that he could have the requisite amount of time to meet his son's needs. *A copy of letters from Andy Bernbaum submitted under separate cover.* Nancy Kramer, a close friend of Andy Bernbaum, who had an opportunity to see Kurt when he was working also wrote a letter on Kurt's behalf. Ms. Kramer wrote about Kurt that "[a]s a friend, he has a well-tuned ear for other's pain, and can provide an empathetic listening for all sorts of difficulties. He has helped me cope with everything from my frustration with the current political climate to moments of despair over my son's serious illness." *A copy of the full text of Ms. Kramer's letter is submitted under separate cover.*

Kurt, who is a cancer survivor and has lost his father, mother and brother to cancer, has touched many lives. Copies of letters written by some friends are submitted under separate cover and are representative of how Kurt is viewed by his peers.

Kurt's view of life has truly changed as a result of the time he has spent with his son. He stayed home at night and sought his joy and fulfillment from watching his son's progress in school and in life. He no longer needed mind altering substances to cope with his life. It was a life style he had never experienced before and cemented in his mind the need to conform his behavior to the norms of society. His dream was that the this Court would see his reformation and craft a sentence that allowed him to continue the care of his son. However, in light of the unambiguous statements made by the Court at the preliminary plea proceeding last month – that Kurt be prepared to go to prison –

Kurt made arrangements to reconcile with his son's mother and relinquish custody to her. Maxwell now lives with his mother in Maine.

Because past behavior is oft-times a good predictor of future conduct, Kurt's fears of what Maxwell's move back to his mother would have on his son's life have come to fruition. Regrettably, presumably because of a lack of attention and oversight (and Kurt theorizes a desire to be a friend rather than a parent), Maxwell's education has reverted to its prior standard. He is being asked to leave the school in which he is presently enrolled. Worse, Maxwell has been charged criminally with having "raised his hands" in anger at one of his teachers. In the past two weeks Kurt has met and Maxwell's teachers and has appeared in juvenile court in Maine. This period of adolescence is a crucial time in Maxwell's live. Kurt asks this Court to consider the suggestion made by Craig Burns in his letter top the Court.

2. *Mea culpa, mea culpa, mea maxima culpa.*

Kurt Walter has always believed in accepting responsibility for his actions. This situation is no different. However, confronted with the family circumstance in which he found himself, Kurt put aside his personal beliefs and fully accepted the responsibility for his acts as reflected in his plea agreement. See *Plea Agreement*. This acceptance of responsibility for his acts and the manner in which he proceeded to lessen the time he would have to spend away from his son shows a tremendous amount of personal growth and a truly repentant attitude. Confession is the first act of contrition. Kurt has put his own safety aside to care for those who need his help.

There is no return from the way he has proceeded in this case. He will forever carry this stigma. He has made a conscious choice to forever extricate himself from his

past – and his former friends and associates – and travel a new (and hopefully better) path through life. A clean and sober life.

In light of the circumstances set forth herein, and the factors set forth in the plea agreement, Kurt Walter asks that he be given a downward departure.

Respectfully submitted,
KURT WALTER, Defendant
By his attorney,

/s/ William Cintolo

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